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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,126	12/20/2001	Heribert Flueter	12758-039001	3033
26161	7590	08/10/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			JONES, PRENELL P	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/027,126	Applicant(s) FLUETER, HERIBERT	
	Examiner Prenell P. Jones	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 8, 12, 14, 16, 18, 20, 25, 27, 28 and 30 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 6, 7, 9-11, 13, 15, 17, 19, 21-24, 26, 29 and 31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 1-8, 10-23 and 25-31 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 3, 5, 8, 12, 14, 16, 18, 20, 25, 27, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fourie et al (US PAT. 6,356,629) in view of Barry et al (US Pat. 6,538,777).

3. Regarding claims 1, 3, 5, 8, 12, 14, 16, 18, 20, 25, 27, 28 and 30, Fourie discloses SVC call setup management strategy as associated in a connection-oriented (ATM) call traffic network wherein the strategy includes determining whether or not congestion exist for the purpose of setting up calls, call setup is implemented and setup thresholds are utilized (Abstract, col. 1, line 10-25, col. 3, line 6-41, col. 6, line 35-43), implementing initiation of new setup when certain thresholds are exceeded, discarding setup messages as associated with exceeding threshold (release threshold) (col. 5, line

38-51), predetermined/preset threshold values assigned, utilizing aggregate number of calls and cell rate to establish call (Fig. 6, col. 4, line 25-61, col. 5, line 11-67, col. 6, line 24-43). However, Fourie is silent on assigning ATM channels to at least one new path after setting-up the at least one new path. In a method for establishing connections by allocating links and channels, Barry discloses assigning channels based on path assignment, wherein allocation of channels on allocated path in a SONET or ATM environment is utilized (col. 1, line 58-61, col. 4, line 9-19). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to be motivated to implement assigning channels after the setting up of a new path as suggested by Barry with the teachings of Fourie for the purpose of further organizing setup communication between communicating nodes.

Allowable Subject Matter

4. Claim 2, 4, 6, 7-11, 13, 15, 17, 19, 21- 24, 26, 29 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: Although the combined prior discloses a communication system wherein SVC call setup management strategy as associated in a connection-oriented (ATM) call traffic network wherein the strategy includes determining whether or not congestion exist for the purpose of setting up calls, predetermined thresholds, and utilizing setting

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up threshold and releasing thresholds, they fail to teach or suggest with respect to claim 2, making anticipatory decision regarding a path takes into account the capacity of the path currently used for transmission of information and required future capacity, with respect to claims 6, 21 setup/release threshold values are variable values administered by the ATM network, with respect to claims 7, 13, 22, 29, an ATM network is AAL2 network, with respect to claim 11, 19, 26, setup/release threshold corresponds to at least one minimum and maximum of a distance between currently used network resources and all available path resources, with respect to claim 15, 31, a path release for at least one path in the network is initiated if the capacity of the path currently used for transmission of information is below a threshold during at least a preset period of time or if the capacity of the path currently used for transmission is on average below a threshold during at least a preset period of time, with respect to 17, capacity of the path currently used for transmission include capacity necessary for at least one of the new call and data transmission.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

August 4, 2006


CHI PHAM
SUPERVISORY PATENT EXAMINER 8/7/06